

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1945

Introduced by Assembly Member Fletcher

February 17, 2010

An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1945, as amended, Fletcher. Taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if the housing units and the private contractor constructing the housing meet specified criteria. *Existing law specifies that one of these criteria is a requirement that any reduction or, if that amount is unknown, the private contractor's reasonable estimate of savings, in property taxes on leased property used for military housing, as defined, inures solely to the benefit of the residents of the military housing through improvements.*

Existing property tax law provides for escape assessments to be made within 4 years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

~~This bill would make a technical, nonsubstantive change to that provision~~ *authorize the county assessor, if the military requires the property tax savings described above to be held in a reserve account for use in future project construction, to levy an escape assessment within 4 years after July 1 of the assessment year in which the property tax savings are withdrawn from the reserve account.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 107.4 of the Revenue and Taxation Code
2 is amended to read:
3 107.4. For purposes of paragraph (1) of subdivision (a) of
4 Section 107, there is no independent possession or use of land or
5 improvements if that possession or use is pursuant to a contract
6 that includes, but is not limited to, a long-term lease, for the private
7 construction, renovation, rehabilitation, replacement, management,
8 or maintenance of housing for active duty military personnel and
9 their dependents, if all of the following criteria are met:
10 (a) The military family housing constructed and managed by
11 private contractor is situated on a military facility under military
12 control, and the construction of that housing is performed under
13 military guidelines in the same manner as construction that is
14 performed by the military.
15 (b) All services normally provided by a municipality are required
16 to be purchased from the military facility or from a provider
17 designated by the military.
18 (c) The private contractor is not given the right and ability to
19 exercise any significant authority and control over the management
20 or operation of the military family housing, separate and apart
21 from the rules and regulations of the military.
22 (d) The number of units, the number of bedrooms per unit, and
23 the unit mix are set by the military, and may not be changed by
24 the contractor without prior approval by the military.
25 (e) Tenants are designated by a military housing agency.

1 (f) Financing for the project is subject to the approval of the
2 military in its sole discretion.

3 (g) Rents charged to military personnel or their dependents are
4 set by the military.

5 (h) The military controls the distribution of revenues from the
6 project to the private contractor, and the private contractor is
7 allowed only a predetermined profit or fee for constructing the
8 military family housing.

9 (i) Evictions from the housing units are subject to the military
10 justice system.

11 (j) The military prescribes rules and regulations governing the
12 use and occupancy of the property.

13 (k) The military has the authority to remove or bar persons from
14 the property.

15 (l) The military may impose access restrictions on the contractor
16 and its tenants.

17 (m) (1) Any reduction or, if that amount is unknown, the private
18 contractor's reasonable estimate of savings, in property taxes on
19 leased property used for military housing under the Military
20 Housing Privatization Initiative (10 U.S.C. Sec. 2871 et seq.) shall
21 inure solely to the benefit of the residents of the military housing
22 through improvements, such as a child care center provided by the
23 private contractor.

24 (2) *Notwithstanding Section 532, if the military, in writing or*
25 *by contract, requires the property tax savings to be held in a*
26 *reserve account for use in future project construction, the county*
27 *assessor may levy an escape assessment within four years after*
28 *July 1 of the assessment year in which the property tax savings*
29 *are withdrawn from the reserve account.*

30 (n) The military family housing is constructed, renovated,
31 rehabilitated, remodeled, replaced, or managed under the Military
32 Housing Privatization Initiative, or any successor to that law.

33 (o) For purposes of this section, "military facility under military
34 control" means a military base that restricts public access to the
35 military base.